

Exhibit 5

1 SHIRLI F. WEISS, Bar No. 79225
shirli.weiss@dlapiper.com
2 DAVID A. PRIEBE, Bar No. 148679
david.priebe@dlapiper.com
3 JEFFREY B. COOPERSMITH
(Admitted *pro hac vice*)
4 jeff.coopersmith@dlapiper.com
DLA PIPER US LLP
5 400 Capitol Mall, Suite 2400
Sacramento, CA 95814-4428
6 Tel: 916.930.3200
Fax: 916.930.3201
7

8 Attorneys for Defendant
Kenneth L. Schroeder

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 SECURITIES AND EXCHANGE
COMMISSION,

14 Plaintiff,

15 v.

16 KENNETH L. SCHROEDER,

17 Defendant.
18

Case No. C-07-3798-JW

**NOTICE OF VIDEOTAPED DEPOSITION
OF ELIZABETH HARLAN**

1 **TO ALL PARTIES AND TO THEIR ATTORNEY OF RECORD:**

2 PLEASE TAKE NOTICE that pursuant to Rules 30 and 45 of the Federal Rules of Civil
3 Procedure, Defendant Kenneth L. Schroeder ("Defendant"), by his attorneys, will take the oral
4 deposition, under oath, of the following individual on Wednesday, December 5, 2007, at the
5 Commission's San Francisco Regional Office located at 44 Montgomery Street, Suite 2600, San
6 Francisco, CA 94104; telephone (415) 705-2500, at the time indicated:

7 Elizabeth Harlan at 1:30 p.m. (Pacific Time) (contact: c/o Matthew E. Sloan, Esq.,
8 Skadden, Arps, Slate, Meagher & Flom LLP, 300 South Grand Avenue, Suite 3400, Los
9 Angeles, CA 90071; (213) 687-5276).

10 This deposition will be recorded by stenographic, audio and videotape means and will
11 take place before a certified shorthand reporter who is authorized to administer oaths.

12
13 Dated: November 26, 2007

DLA PIPER US LLP

14
15 By 

SHIRLI F. WEISS
DAVID A. PRIEBE
JEFFREY B. COOPERSMITH

16
17 Attorneys for Defendant
18 Kenneth L. Schroeder

19 SD\1775298.1
20
21
22
23
24
25
26
27
28

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION
 V.

SUBPOENA IN A CIVIL CASE

KENNETH L. SCHROEDER

Case Number:¹ C-07-3798-JW

TO: Elizabeth Harlan, c/o Matthew E. Sloan, Esq., Skadden, Arps, Slate, Meagher &
 Flom LLP, 300 South Grand Avenue, Suite 3400, Los Angeles, CA 90071

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
Securities and Exchange Commission 44 Montgomery Street, Suite 2600 San Francisco, CA 94104	December 5, 2007 at 1:30 p.m.

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
<input type="checkbox"/> YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.	

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Attorney for Kenneth Schroeder	November 26, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
 Shirli F. Weiss, DLA Piper US LLP, 401 B Street, Suite 1700, San Diego, CA 92101; (619) 699-3650

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the City and County of San Diego, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within-entitled action. My business address is DLA Piper US LLP, 401 B Street, Suite 1700, San Diego, California 92101-4297.

On November 26, 2007, I served the following document(s):

NOTICE OF VIDEOTAPED DEPOSITION OF ELIZABETH HARLAN

On the interested parties in the subject action by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth below.

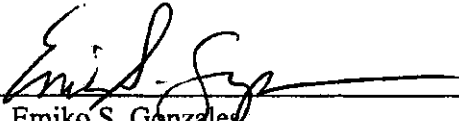
Susan F. La Marca
Mark P. Fickes
Elena Ro
Securities and Exchange Commission
44 Montgomery Street, Suite 2600
San Francisco, CA 94101
lamarcas@sec.gov
fickesm@sec.gov
roe@sec.gov

Elizabeth Harlan c/o Matthew E. Sloan, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
300 South Grand Avenue, Suite 3400
Los Angeles, California 94111
matthew.sloan@skadden.com

Elliot R. Peters
Stuart L. Gasner
Keker & Van Nest LLP
710 Sansome Street
San Francisco, CA 94111
epeters@kvn.com
sgasner@kvn.com

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on November 26, 2007, at San Diego, California.


Emiko S. Gonzales

SDA1774323.1